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Technology Center 2600

Applicant: MARK E. EIDSON et al.

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Group Art Unit: 2654

Serial No.: 09/185,248

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Examiner: A. Armstrong

Filed: November 3, 1998

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For: MIXING DIVERSELY ENCODED
DATA STREAMS

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Atty. Dkt. No.: ITL.0136US
(P6520)

Board of Patent Appeals & Interferences
Commissioner for Patents
Washington, DC 20231

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REPLY BRIEF

JUL - 9 2002

Dear Sir:

Applicants reaffirm their arguments stated in the Appeal Brief. In addition, Applicants also make the following observations in response to the Examiner's Answer:

The Examiner still has not pointed out, nor has Applicants found, any reference to the use of "linear pulse coded signals" nor a disclosure of the use of a "linear pulse coded modulated mixer" as required by Applicants claims in any of the references cited by the Examiner. The only evidence in the record is now the admission by the Examiner that the reference does not teach the use of linear pulse coded modulated format signals and a bare statement by the Examiner that this format is well known. The Examiner stated:

Date of Deposit: June 28, 2002
I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, Board of Patent Appeals & Interferences, Washington, DC 20231.
Dawn L. Thomas
Dawn L. Thomas

“Farhangi et al do not specifically teach that the raw format is linear pulse code modulated format. However, using linear pulse code modulation as a raw format for digital data is extremely well known....” (Examiner’s Answer at P8).

A bare statement now by the Examiner does not breathe life into the references.

Applicants point out that such an “extremely” well known format was apparently missed by Farhangi et al., Alexander et al, and all the others cited by the Examiner, as they neglected to disclose the use of linear pulse code modulated signals or a linear pulse code mixer. Nor has the Examiner even pointed out a single reference, or combination of references, where the use of linear pulse code modulated signals or mixers are utilized much less the mixing of two linear pulse coded modulated signals.

In short, a *prima facie* case of obviousness has not been made out by the Examiner as the prior art references do not teach or suggest all the claim limitations as required under 35 USC §103 (a). (MPEP 2143.03).

Additionally, the Examiner still does not provide a proper motivation to combine the references with respect to Applicant’s claim 20. Aside from the limitations discussed above, claim 20 includes the limitation “further comprising encoding the combined data stream into a second compressed format before receipt by the CODEC device. On page 10 of the Examiner’s answer, the Examiner argues that “Thus, it would be obvious to compress the combined signals in a perceptually based format to achieve the reduced transmission bandwidth....”

However, even if true, the Examiner has offered no motivation or suggestion, other than Applicant’s disclosure, to combine the compressed signals and then further compress them utilizing a CODEC. “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the

combination" *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990), MPEP 2143.01.

Applicants also point out that the level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (fed Cir. 1999), MPEP 2143.01.

For the reasons set forth in Applicant's Appeal Brief and the reasons detail above, the rejections of Applicant's claims should be reversed.

Respectfully submitted,

Date: _____



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